

EXHIBIT 20

NAAVROW1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ULKU ROWE,

Plaintiff,

v.

19 Civ. 8655 (JHR)

GOOGLE LLC,

Defendant.

Trial

New York, N.Y.
October 10, 2023
10:15 a.m.

Before:

HON. JENNIFER H. REARDEN,

District Judge
-and a jury-

APPEARANCES

OUTTEN & GOLDEN, LLP
Attorneys for Plaintiff
BY: CARA E. GREENE
GREGORY S. CHIARELLO
SHIRA Z. GELFAND

PAUL HASTINGS LLP
Attorneys for Defendant
BY: KENNETH W. GAGE
SARA B. TOMEZSKO

Also Present: Vincent Yang, Paralegal (Outten & Golden)
Andrew Velazquez, Google Rep.
Jean Gutierrez, Paralegal (Paul Hastings)

NAAVROW1

Opening - Mr. Chiarello

1 THE DEPUTY CLERK: He should have asked me first.
2 There's wirings that could be pulled. That's fine.

3 MR. CHIARELLO: This is as far as I'm going to take
4 it.

5 THE COURT: Okay.

6 MR. CHIARELLO: Thank you. And thank you in advance
7 for your service in this case.

8 Consider with me what it would feel like to have your
9 worth, your value, determined not by your ability or your
10 intellect or your experience, but by the simple fact of being a
11 woman. This case is about Ulku Rowe, a Google employee who
12 experienced exactly that, who Google paid less than men who
13 were performing the exact same job as her. Google undervalued
14 Ms. Rowe at her hire in 2017, and paid her a pay grade called a
15 level that was lower than the level given to five men who were
16 hired to do the exact same job, even though she had greater
17 qualifications than some of those men.

18 This case is also about how, in 2018, Google similarly
19 undervalued Ms. Rowe when she applied for a promotion to a role
20 to which Google had said she was the obvious fit; and how,
21 instead, it just tapped a man on the shoulder and gave him that
22 job, even though he was less qualified than Ms. Rowe.

23 This case is also about how Google then retaliated
24 against Ms. Rowe for speaking up about her mistreatment by
25 denying her promotion and advancement opportunities, and by

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Opening - Mr. Chiarello

1 only one. Most of the technical directors got this. A lot of
2 sign-on bonuses among all the technical directors. So when you
3 strip that away, when you compare apples to apples, the actual
4 annual compensation between each of these individuals, between
5 the Level 9 men and Ms. Rowe, you'll see that they earn much
6 more than she did.

7 So as I mentioned, this is a case about unequal pay.
8 As you listen to the evidence, think about how similar
9 Mr. Harteau and Ms. Rowe's work was to each other, whether
10 Google had any business need to be hiring five men at a Level 9
11 and Ms. Rowe at a Level 8. Because this case is also about
12 gender discrimination. Think about whether Ms. Rowe's gender
13 impacted at all the decision to level her as a Level 8 rather
14 than a Level 9.

15 I've given you the background. Now let me tell you
16 about how Google's leveling decisions impacted Ms. Rowe
17 throughout her career until this day.

18 You're going to hear how in late 2017, after learning
19 some of her colleagues had been leveled at Level 9, Ms. Rowe
20 spoke to human resources. She wanted to know why that was.
21 What HR told her was, Sorry, there isn't a process to revisit
22 your level. If you want to correct your level, you need to get
23 a promotion. But, in fact, there was a process to correct it.
24 HR didn't trigger that process.

25 You'll also see how Ms. Rowe applied for a new role

NAAHRow2

Opening - Mr. Chiarello

1 very key qualifications that Ms. Piazza did not. Foremost,
2 Ms. Rowe was familiar with the product. In addition to her
3 long career leading up to joining Google, she had already been
4 in the role for three years focusing on cloud products for
5 financial institutions, the exact role that they brought in
6 Ms. Piazza for. Ms. Piazza didn't have cloud experience at
7 all. Ms. Rowe had worked across multiple financial
8 institutions in her career, knew the industry. Ms. Piazza had
9 been at one bank her entire career, and it's a critical
10 distinction when we're talking about industry recognition.
11 Ms. Piazza also didn't have any sales experience, the very
12 thing Google claims is key to the role and why Ms. Rowe didn't
13 get the job, wasn't even considered for the job.

14 So the evidence will show it was far from a foregone
15 conclusion that Ms. Piazza would have gotten the job over
16 Ms. Rowe had Ms. Rowe been given a fair shot in the first
17 place. But of course, Ms. Rowe never gave — I'm sorry, of
18 course, Google never gave Ms. Rowe a fair shot.

19 These pieces: Ms. Rowe's underleveling at hire
20 compared to the male technical directors; her underpayment
21 compared to men doing the same work, Mr. Harteau and
22 Mr. Breslow; her treatment as a woman in the leveling process
23 for the financial services vertical lead just generally; and
24 how Google treated Ms. Rowe after she complained of
25 discrimination are what this case is about. Of course, it is

NAAHRow2

Opening - Mr. Chiarello

1 about the consequences to Ms. Rowe, the millions of dollars in
2 lost compensation, the stymied career progression while being
3 trapped at Google, and the impact on her personally.

4 Look, you as the jury, you're the ones that get to
5 hear this case and right this wrong. After you've heard the
6 evidence, after you've heard Judge Rearden's instructions, I
7 trust that you'll return a verdict in Ms. Rowe's favor,
8 awarding her fair and just compensation.

9 Thank you.

10 THE COURT: Mr. Gage.

11 MR. GAGE: Thank you, Judge Rearden.

12 Ladies and gentlemen, on behalf of Google and my
13 colleagues, Sara and Andrew and Jean, I really want to thank
14 you for giving of your time to help us decide this case.

15 We have a dispute, Ms. Rowe and Google, and I know you
16 didn't really have a choice. You have to be here. I recognize
17 that, but I sincerely appreciate you taking this case
18 seriously. I sincerely appreciate you taking to heart what
19 Judge Rearden told you earlier about how what I say, what
20 Mr. Chiarello says is not evidence. I want you to remember
21 that.

22 Now, your time is precious, and so I'm going to be
23 brief. This case is about three things, and I want you —
24 because I can't write it on a piece of paper, I want you to
25 look at those screens in front of you and I want you to imagine

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 ULKU ROWE,

4 Plaintiff,

5 v.

19 Civ. 8655 (JHR)

6 GOOGLE LLC,

7 Defendant.

Trial

8 -----x

New York, N.Y.
October 13, 2023
9:30 a.m.

10 Before:

11 HON. JENNIFER H. REARDEN,

12 District Judge
13 -and a jury-

14 APPEARANCES

15 OUTTEN & GOLDEN, LLP
Attorneys for Plaintiff

16 BY: CARA E. GREENE
GREGORY S. CHIARELLO
17 SHIRA Z. GELFAND

18 PAUL HASTINGS LLP
Attorneys for Defendant

19 BY: KENNETH W. GAGE
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22 Jean Gutierrez, Paralegal (Paul Hastings)

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1 December 12, 2022, and at the same time, it bears noting,
2 adding at least four other exhibits over that time period.

3 As a result of these circumstances, defendant was
4 unable to subject Ms. Bennett herself, as well as other
5 potential trial witnesses, to adversarial testing on the issues
6 surrounding Ms. Bennett, nor to make targeted discovery
7 requests that it may have otherwise made. Nor did defendant
8 have an opportunity to address and brief these issues at
9 summary judgment or at any other stage before trial.

10 I find plaintiff's arguments to the contrary, such as
11 its reliance on a fleeting unclear reference to "Jen"
12 unavailing. To spring an evidently key part of
13 plaintiff's case on defendant in the thick of trial would be
14 unduly prejudicial. For this reason, courts will not
15 countenance the eleventh-hour assertion of new key arguments
16 and facts at trial. I cite here as an example,
17 *Busher v. Barry*, 2019 WL 6895281 (S.D.N.Y. Dec. 18, 2019), in
18 which the Court cited other cases for the proposition that
19 courts will not endorse "a party without explanation for the
20 delay springing new facts and legal theories on the eve of
21 trial."

22 I cite also to *Balogun v. Board of Regents of the*
23 *University of Wisconsin System* in which the Court determined
24 that plaintiff's "undeveloped argument is too little too late.
25 Plaintiff could and have had developed its newly raised

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 ULKU ROWE,

4 Plaintiff,

5 v.

19 Civ. 8655 (JHR)

6 GOOGLE LLC,

7 Defendant.

Trial

8 -----x

New York, N.Y.
October 18, 2023
8:50 a.m.

10 Before:

11 HON. JENNIFER H. REARDEN,

12 District Judge
13 -and a jury-

14 APPEARANCES

15 OUTTEN & GOLDEN, LLP
Attorneys for Plaintiff

16 BY: CARA E. GREENE
GREGORY S. CHIARELLO
17 SHIRA Z. GELFAND

18 PAUL HASTINGS LLP
Attorneys for Defendant

19 BY: KENNETH W. GAGE
SARA B. TOMEZSKO

20 Also Present: Vincent Yang, Paralegal (Outten & Golden)
21 Andrew Velazquez, Google Rep.
22 Jean Gutierrez, Paralegal (Paul Hastings)

NAIHR05

Ostrofe - Direct

1 of 2017 until the end of the year.

2 Q. And Google did not prorate Ms. Rowe's bonus for that year,
3 correct? You didn't see anything suggesting that in your
4 documents?

5 A. That I'm not sure.

6 Q. What did you calculate Ms. Rowe's damages on the unequal
7 pay claim as related to Mr. Harteau to be?

8 A. Oh, that — that amount is \$1,968,853. For the court
9 reporter, it's 1,968,853.

10 Q. And does that include interest?

11 A. No, it does not include, in New York, prejudgment interest
12 of 9 percent per year compounded annually, simple interest.

13 Q. OK. And you also calculated Ms. Rowe's damages related to
14 discrimination and retaliation, correct?

15 A. Correct.

16 Q. And did you calculate damages relating to her not being
17 selected for the financial services vertical lead position?

18 A. Yes, I did.

19 Q. And that was the position that Stuart Breslow ultimately
20 filled, correct?

21 A. Correct.

22 Q. Can you tell us how you calculated the damages for the
23 financial services vertical lead discrimination and retaliation
24 claim?

25 A. Yes. Stuart Breslow assumed that position in — on

NAIHR05

Ostrofe - Direct

1 December 10, 2018. So I calculated damages between what
2 Mr. Breslow earned in that position from December 10, 2018, up
3 until the date of trial, which — or the former date of trial,
4 which was August 14, 2023.

5 Q. And did you make any adjustments for Mr. Breslow's
6 compensation after he departed Google?

7 A. I did the same thing with him that I did with Mr. Harteau.
8 He also left Google in 2020, although we know what he would
9 have earned had he completed the 2020 year there. So for —
10 again, for the years of 2021, 2022, and 2023, I just used
11 Mr. Breslow's compensation from the 2020 year, kept it flat,
12 and carried it forward.

13 Q. And what components of compensation were you including when
14 you calculated damages for Ms. Rowe related to Mr. Harteau or
15 related to Mr. Breslow?

16 A. That would be base salary, annual bonus, and equity
17 refresher grants that were granted annually.

18 Q. What did you calculate Ms. Rowe's damages on the financial
19 services vertical lead position to be?

20 A. That would be \$687,507. Yes, 678,507.

21 Q. You were also asked to calculate Ms. Rowe's losses relating
22 to Google's retaliatory failure to consider her for the VP
23 financial services sales role, correct?

24 A. Correct.

25 Q. And that was the position that Yolande Piazza ultimately

NAIHR05

Ostrofe - Direct

1 filled, correct?

2 A. Correct.

3 Q. Can you tell us how you calculated the damages for that
4 claim.

5 A. OK. Ms. Piazza's in the position on June 22, 2020. So I
6 calculated the difference between what she received in salary,
7 annual bonus, and equity grants, and I think because she was in
8 sales, she received a small spot bonus as well, and what
9 Ms. Rowe received in annual salary, bonus, and equity refresher
10 grants.

11 Q. So what did you calculate Ms. Rowe's damages on the VP
12 financial services sales role to be?

13 A. That will be \$5,735,276. For the court reporter that would
14 be 5,735,276.

15 Q. And that's without interest?

16 A. Correct.

17 Q. Have you calculated the value of Ms. Rowe's claims if she
18 prevails on both the equal pay claims related to Mr. Harteau
19 and the failure to promote claim related to Ms. Piazza?

20 A. Yes.

21 Q. And what is that number?

22 A. That would be \$6,742,503. So that's 6,742,503.

23 Q. And, again, that's without interest?

24 A. Correct.

25 Q. Now, why is that number smaller than the combination of

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1 THE COURT: Yes.

2 MR. GAGE: In light of the evidence, your Honor, we
3 would ask that the verdict form place the discrimination
4 claim first. And I'm not trying to argue the point, but I just
5 want to make the suggestion that we are asking for is that, on
6 the verdict form, the jury first answer the question on the
7 discrimination claim. And you will see our proposed verdict
8 form asks them to determine whether the plaintiff has proved by
9 a preponderance of the evidence that gender was a reason for
10 her level, because if they don't find that, if they don't find
11 that she proved that, it has implications for the New York
12 Labor Law claim inasmuch as it is, again, referring to Judge
13 Schofield's decision on summary judgment, a bona fide factor,
14 and we believe there's ample evidence of business necessity,
15 etc., etc. So —

16 THE COURT: OK. Ms. Greene.

17 MS. GREENE: Yes, your Honor. We would absolutely
18 oppose that because it's intended to conflate the two issues.
19 Equal Pay Law does not require any sort of gender motivation in
20 the decision, and by putting the gender claim first, it would
21 confuse the jury by suggesting that gender somehow is relevant
22 to the finding of an Equal Pay Law claim. The affirmative
23 defense is an affirmative defense and should be treated
24 separately from the jury's finding of the *prima facie* case on
25 liability.

NAIHR07

1 MR. GAGE: Your Honor, just if I can respond. If we
2 do it the way counsel is suggesting, I think there's a real
3 risk that your Honor's going to have to face — could face an
4 inconsistent verdict, and that's the reason I'm suggesting that
5 they answer the question about leveling on the discrimination
6 claim first. Because if the jury determines that Google did
7 not set her level based on her gender in violation of the
8 discrimination law, then, again, per Judge Schofield's ruling,
9 if it wasn't a tainted variable, level — we've already heard
10 some testimony from Mr. Humez that level is a determiner of
11 pay. We know it's a determiner on bonus — and so if the jury
12 determines that the plaintiff hasn't proved it was tainted,
13 then by definition we can rely on it on the fair pay claim, the
14 Section 194 claim on the affirmative defense. And I worry that
15 if we do it the other way around and they say, no, she didn't
16 prove discrimination, but they also say, no, there's no bona
17 fide factor, your Honor might be faced with some
18 inconsistencies that we have to resolve at the end of trial.

19 MS. GREENE: Your Honor, I would just note that
20 defendant bears the burden to prove that it's a
21 nondiscriminatory factor that is both business related — or,
22 I'm sorry, job related and dictated by business necessity. So
23 even if defendant is right that the jury were to find that
24 gender is not at play here, it doesn't mean that they've
25 automatically established their defense. They still bear the

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1 burden of showing that it was something other than gender and
2 it was job related and consistent with business necessity.

3 So, again, flipping those is intended to confuse the
4 jury and suggest that gender somehow in and of itself relates
5 to the underlying claim for the New York Equal Pay Law instead
6 of the affirmative defense, which is really where it belongs.

7 MR. GAGE: It's not intended to confuse anything.
8 They're clearly different sections on the verdict form, and
9 they've got labels for them. So it's not intended to confuse.

10 THE COURT: OK. I think I got it.

11 MR. GAGE: Your question, your Honor, about tomorrow?

12 THE COURT: Yes.

13 MR. GAGE: We have — counting Mr. Humez, who we've
14 already got started, we have a total of six witnesses. And we
15 did get a time check from Ms. Williams.

16 THE COURT: Oh, good.

17 MR. GAGE: And collectively, the parties have 4.6
18 hours. I'm not saying that because we intend to use them all,
19 Judge, but —

20 THE COURT: OK.

21 MR. GAGE: And so if we start at 9:00, it looks to me
22 if we — if your Honor takes the half-hour lunch and takes a
23 15-minute morning break, that we'll finish the evidence
24 sometime midafternoon is my best guess.

25 THE COURT: OK.

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 ULKU ROWE,

4 Plaintiff,

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19 Civ. 8655 (JHR)

6 GOOGLE LLC,

7 Defendant.

Trial

8 -----x

New York, N.Y.
October 19, 2023
8:57 a.m.

10 Before:

11 HON. JENNIFER H. REARDEN,

12 District Judge
13 -and a jury-

14 APPEARANCES

15 OUTTEN & GOLDEN, LLP
Attorneys for Plaintiff

16 BY: CARA E. GREENE
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1 Stipulations of fact. Have we had two of those or
2 just one?

3 MR. GAGE: I think it's just the one you read
4 yesterday, your Honor.

5 THE COURT: Okay. I would give that to the jury,
6 unless you prefer not to. But you can let me know.

7 MR. GAGE: Our view is that it's -- sorry for not
8 standing, Judge.

9 THE COURT: That's all right.

10 MR. GAGE: Is that you read it into the record. It's
11 no different than testimony that's in the record.

12 THE COURT: Right. So if they want it, they could ask
13 for that. All right.

14 All right. I'm now going to rule on plaintiff's
15 application to compel the supplemental production of any
16 additional status reports relating to the VP financial services
17 sales position beyond the four reports that have already been
18 admitted into evidence, that is, D-74, D-76, D-77, and D-78.

19 Defendant produced D-74, 76, 77, and 78 on November
20 11th, 2022, nearly one year ago. Plaintiff was well aware of
21 those documents. Indeed, on November 21st, 2022, she moved *in*
22 *limine* to exclude all evidence concerning consideration of
23 candidates for the vice president financial services role other
24 than Ms. Rowe, including D-74, 76, 77, and 78. See ECF No. 42.

25 Plaintiff now suggests that documents may be missing

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1 because the conversation in which Mr. Vardaman told Ms. Rowe
2 that she "wasn't going to be considered because she wasn't a
3 good fit," occurred within just one week of February 21st,
4 2020, when the latest of the four status reports, D-74, was
5 created. Plaintiff also contrasts Mr. Vardaman's deposition
6 testimony that he did not create updates for Ms. Kliphouse
7 related to the FSVL role, and that whatever he may have created
8 was "much more *ad hoc*" with his trial testimony that he created
9 these status reports and updated them continuously to keep
10 track of the VP financial services sales search in preparation
11 for his meetings with Ms. Kliphouse.

12 However, the temporal relationship between D-74, 76,
13 77, and 78, all of which were created between late January and
14 February 21, 2020, and Ms. Rowe's and Mr. Vardaman's
15 conversation in late February 2020, is not new information.
16 Accordingly, the Court fails to see why plaintiff waited until
17 trial to raise this issue, let alone why she delayed four days
18 after Mr. Vardaman had testified. Plaintiff's application is
19 therefore denied.

20 Are we ready to bring the jury in?

21 Is the witness ready?

22 MR. GAGE: He's just out in the hall, but yes.

23 THE COURT: We weren't going to start till 9:15, but
24 we might as well start now, right?

25 MR. GAGE: It's fine by us, your Honor.

NAKHRow1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 ULKU ROWE,

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NAKVROW1

Summation - Ms. Greene

1 Three days later, Mr. Vardaman updated his weekly
2 notes to say: It doesn't sound like she is viable for the VP
3 position, the VP role. Three days after she made her
4 complaint.

5 November 7th, she raises another concern, this time to
6 Mr. Shaukat and Ms. Greene. The same month: How do we message
7 to Ulku that she's not getting the role? Vardaman is
8 requesting feedback from interviewers on Ms. Rowe, who was a
9 candidate. The "was," before they got the feedback from all
10 those purple dots. And of course, on December 5th, Mr. Shaukat
11 told Ms. Rowe: To be blunt, you won't be getting the role.

12 That's retaliation, folks.

13 And the damage Google had caused to Ms. Rowe is not
14 theoretical. You heard from Ms. Ostrofe testifying about the
15 damages Ms. Rowe has encountered. The damages from her equal
16 pay claim, the damages from not receiving the FSL role, the
17 damages for not getting the role that went to Yolande Piazza,
18 the damages when combined.

19 And you also heard Ms. Rowe describe the impact this
20 has had on her emotional well-being, her psyche, her
21 relationships. How do you put a number on that? Well, the law
22 provides some guidance for us. And so we ask that you would
23 award 300,000 to her in compensatory damages for that damage to
24 her emotional well-being, her psyche, her relationships.

25 And then there's the question of punitive damages. As

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Summation - Mr. Gage

1 the judge will explain, punitive damages are awarded to punish
2 a defendant and set an example in order to deter the defendant
3 and others from committing similar acts in the future.

4 Just because Google's discrimination was sometimes
5 subtle doesn't make it any less reprehensible. Subtle
6 discrimination is sometimes the easiest to get away with and
7 the hardest to prove because it operates in the shadows. And
8 that's why deterrence is so important.

9 Punitive damages send a message that this kind of
10 discrimination will not be tolerated. Companies need to know –
11 Google needs to know – that they will be held accountable. And
12 today we are asking that you, the jury, hold Google
13 accountable. Thank you.

14 MR. GAGE: One moment, your Honor.

15 Ladies and gentlemen, thank you. You've all been
16 incredibly patient. You've been very attentive. I think some
17 of you may have more notes than we have.

18 Pretty soon the case will be yours. Sara, Andrew, and
19 Jean and I, we've tried to be efficient in presenting our case,
20 but we ask you to indulge us just a little bit longer so we can
21 respond to Ms. Greene.

22 This case is really about one central question: Why
23 did Google do what it did? Why did Google make Ms. Rowe a
24 Level 8 technical director? Why did it not give her the
25 financial services vertical lead role? Why did it not give her

NAKVROW4

Charge

1 not subject to federal income taxes and you should not consider
2 such taxes in determining the amount of damages, if any. The
3 verdict form I will give you will assist you in recording the
4 determination, if any, that you make as to damages.

5 The economic loss plaintiff has suffered as a result
6 of any claims she has put forth is called "backpay." Backpay
7 consists of the value not only of salary, but also of bonuses,
8 stock awards, and other forms of compensation and benefits that
9 Ms. Rowe would have received if not for Google's unlawful
10 conduct, if that is what you find.

11 Specifically, Ms. Rowe asserts that she was paid less
12 than men performing equal work under Labor Law Section 194.
13 She also asserts that because she is a woman, Google paid her
14 less and denied her positions that would have entitled her to
15 greater compensation, in violation of the city law. She
16 further asserts that because she made protected complaints,
17 Google denied her positions that would have entitled her to
18 greater compensation.

19 Your job as the jury is to determine what damages, if
20 any, Ms. Rowe has proved by a preponderance of the evidence for
21 each claim. Ms. Rowe is entitled to lost wages and benefits,
22 even if they are difficult to calculate. Any uncertainty about
23 the amount of lost compensation to be awarded to Ms. Rowe
24 should be resolved in her favor. That said, Ms. Rowe has the
25 burden of proving that she actually incurred a loss of backpay.